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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/972,568		10/05/2001	Brad K. Fayette	064731.0187 5350		
5073	7590	06/06/2006		EXAMINER		
BAKER B			DIVECHA, KAMAL B			
SUITE 600				ART UNIT	PAPER NUMBER	
DALLAS, 1	TX 7520	1-2980	2151			
				DATE MAILED: 06/06/2006	DATE MAILED: 06/06/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	T A 11 41 A4	A 11 1/ 3					
	Application No.	Applicant(s)					
Office Action Symmony	09/972,568	FAYETTE, BRAD K.					
Office Action Summary	Examiner	Art Unit					
	KAMAL B. DIVECHA	2151					
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPL' WHICHEVER IS LONGER, FROM THE MAILING D. Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).					
Status							
1)⊠ Responsive to communication(s) filed on 17 M	Jaroh 2006						
· _ ·	action is non-final.						
3) Since this application is in condition for allowar		secution as to the merits is					
closed in accordance with the practice under E							
Disposition of Claims	in parto quayro, 1000 C.D. 11, 40	0.0.210.					
•							
	☑ Claim(s) <u>1,3-5,11,13-15,17,20 and 22</u> is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.						
	wn from consideration.						
Claim(s) is/are allowed.							
	Claim(s) <u>1,3-5,11,13-15,17,20 and 22</u> is/are rejected.						
7) Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/o	r election requirement.						
Application Papers							
9) ☐ The specification is objected to by the Examine	er.						
10) The drawing(s) filed on is/are: a) acc	epted or b)□ objected to by the I	Examiner.					
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correct	tion is required if the drawing(s) is ob	jected to. See 37 CFR 1.121(d).					
11) The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of:		)-(d) or (f).					
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority document							
3. Copies of the certified copies of the prio	·	ed in this National Stage					
application from the International Bureau							
* See the attached detailed Office action for a list	or the certified copies not receive	ea.					
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)					
2) DNotice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail D	ate					
<ol> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)</li> <li>Paper No(s)/Mail Date</li> </ol>	5) Notice of Informal F 6) Other:	atent Application (PTO-152)					

Application/Control Number: 09/972,568

Art Unit: 2151

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## **DETAILED ACTION**

Claims 1, 3-5, 11, 13-15, 17, 20 and 22 are pending in this application.

Reopening of Prosecution After Appeal Brief or Reply Brief

In view of the Appeal Brief filed on 3/17/2006, PROSECUTION IS HEREBY REOPENED. The Office Action sets forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

## Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1, 3-5, 11, 13-15, 17, 20 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to a computer program, which is not embodied in a computerreadable storage media, and the computer program also does not produce concrete, useful and tangible results. Art Unit: 2151

2. Claims 1, 3-5, 11, 13-15, 17, 20 and 22 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

The claims fail to disclose any utility and/or practical application.

Note: For more information on 35 U. S. C. 101, please refer to 101 guidelines available on USPTO web site.

## Conclusion

An attempt and/or telephone call was made by the examiner on May 17, 2006, in order to resolve the 35 U. S.C. 101 rejections with respect to claims 1, 3-5, 11, 13-15, 17, and 20, but did not result in a resolution of the rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Increased Flex Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kamal Divecha Art Unit 2151 May 26, 2006.

Khanh Dinh Primary Examiner

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